



Department of  
**Education**  
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## CONSULTATION DOCUMENT

# **STRENGTHENING INSPECTION LEGISLATION FOR SCHOOLS AND OTHER EDUCATION AND TRAINING ESTABLISHMENTS**

## **Foreword from Paul Givan, Education Minister**

The most fundamental feature of an education system which promotes social mobility is one in which every child is able to attend a good school. Inspection is primarily about empowering our teaching workforce to improve the quality of education and safeguard our children and young people.

Inspection is a critical part of school improvement, of supporting and maintaining the professionalism of our teaching workforce and of providing assurances to the public that our schools and other education and training establishments are providing quality education. It is vital to all learners.

As a society, we need inspection to help us understand what is working well and just as importantly, to know when and where support is needed to improve the education and training that children and young people are experiencing.

Inspection is a vital service to government and is increasingly important in the context of pressurised budgets and the increasing and complex needs of learners who continue to be impacted by the legacy of the pandemic.

Without inspection, government, parents and carers and wider society have no external assurance that appropriate child protection arrangements are in place in schools, or that basic statutory requirements around hours of instruction and delivering the curriculum are being met.

Critically, the prolonged absence of inspection during the past decade due to its inclusion within Action Short of Strike means many schools have not been identified for the support they need to improve. This impacts on all learners but inevitably impacts most on those children and young people who are disadvantaged and vulnerable.

Inspection must be enabled to operate effectively and as intended. That is why I am proposing to bring forward a standalone Bill to remove any ambiguity from our current legislation and create an absolute requirement to cooperate with inspection. This will

protect the inspection process across our schools and other education and training establishments. It will also ensure stability and support improvement in our education system.

Northern Ireland is currently the only jurisdiction across the United Kingdom and Ireland that does not set out a clear legislative requirement to cooperate with inspection.

The Education and Training Inspectorate (ETI), as the voice for equity and excellence for all of our children, plays a key role in providing assurance that schools and settings are actively safeguarding and protecting children's interests. There are no sound or child centred educational arguments to allow the current position of disruption to inspection to continue. The needs of our children and young people are paramount.

ETI has worked with the Teaching Unions and all other stakeholders over the last three years to co-design a transformed inspection process. The successful implementation of my *TransformED* strategy will be reliant on the collaborative work of all those involved in education. It will also be underpinned by constructive and impactful monitoring and evaluation through the inspection framework.

This consultation seeks views on inspection legislation proposals and will run from 15 May 2025 until 10 July 2025.

I encourage all those with an interest in this important area to contribute to the consultation and thank you for taking the time to do so.

**Paul Givan MLA**  
**Minister of Education**

## **1. Overview**

Inspections are a key part of the education accountability architecture in many high-performing countries. Inspections typically involve a team of experienced professionals working with the school, setting or college to understand its vision and how it goes about supporting the educational needs of its learners, engaging in professional dialogue with staff, parents/carers and learners, observing aspects of its provision and identifying what is working well and what could be developed further, in the best interests of the learners.

The goal of inspection is to ensure the school or other education setting is providing a good standard of education, maintaining a safe and effective learning environment and meeting all legal requirements. Inspection is intended to act as a catalyst for the continuous improvement of schools, colleges and education standards.

In Northern Ireland, inspection of education settings including schools and further education colleges is undertaken by ETI operating in accordance with Article 102 of the Education and Libraries (Northern Ireland) Order 1986. This requires that “every relevant establishment shall be open at all reasonable times to inspection”.

The current legislation, however, makes no explicit reference to the need for school and college staff to cooperate with inspection. This means that the Teaching Unions have included non-cooperation with inspection as part of their industrial action, which has primarily taken the form of Action Short of Strike. This has significantly disrupted inspection in schools during the past decade.

## **2. What is the Department Proposing?**

The Department proposes to strengthen the existing statutory framework for inspection of schools and other education and training establishments by making it an offence to intentionally obstruct a person involved in the carrying out of an inspection. This consultation is asking for your views on these proposals.

In line with a key recommendation from the [Independent Review of Education](#), the proposals would align the legislative provisions for inspection in Northern Ireland with those in England, Scotland, Wales and the Republic of Ireland, all of which safeguard the inspection process by making it an offence to obstruct inspection.

### **3. What Needs To Change?**

As highlighted above, in recent years, the ability to undertake statutory education inspections has been significantly impeded, largely due to industrial action by the Teaching Unions which has included non-cooperation with inspection as part of Action Short of Strike.

This has limited our understanding of how individual schools and our system as a whole are performing and means schools which require improvement are not being identified and supported. It also means the existing effective practice in our schools has not been identified and disseminated more widely. This adversely impacts on learners. It also limits the information available to parents and the wider public, including safeguarding information.

For inspection to work as intended, the current legislation requires amendment to ensure that full cooperation with all inspection activity is a clearly specified legal requirement. The revised legislation would make it an offence to obstruct inspection.

### **4. The Value of Inspection**

Northern Ireland invests over £3 billion in education annually and, as with any public investment, it is critical we have evidence to demonstrate expenditure is being used to best effect, is targeted appropriately and is achieving the desired impact.

Inspection provides objective, comprehensive and independent evaluation of the quality and effectiveness of our education and training systems. It provides evidence to support the identification and dissemination of best practice and identifies where changes are required in the interests of all learners.

Inspection also promotes the highest standards of education and of professional practice amongst teachers and staff in relevant establishments. It is critical to meeting the learning and development needs of all of our children and young, enabling them to make a valuable contribution to our society and our economy and to live happy, healthy lives.

Inspection aims to:

- present an accurate picture of education quality to government;
- provide advice on policy creation, development and review;
- disseminate examples of effective and innovative practice; and
- identify where and why a school or organisation is not thriving so that support can be put in place.

Inspection provides Executive Ministers, the Northern Ireland Assembly, parents and the public with an important evaluation of the quality of the educational provision experienced by children and young people and the effectiveness of arrangements for child protection and adult safeguarding. The external validation of an organisation's self-evaluation processes by inspection activity is crucial in bringing about positive change, driving up standards and improving the lives and life-chances of learners.

By providing an independent external view based solely on the best interests of the child/children and learners, inspection can advise how such issues are impacting on individual settings and identify and showcase the innovative solutions some organisations are developing to handle the challenges.

The Northern Ireland Audit Office (NIAO) has highlighted the damaging impact of a lack of coherent evaluation of education policy and strategy in relation to both the increasing costs related to provision for Special Educational Needs (SEN) provision and more recently the Northern Ireland Skills strategy. Inspection provides such evaluation.

In keeping with its vision 'to be the voice for equity and excellence for all learners' and its mission of 'empowering improvement in the interests of all learners', ETI has

worked extensively with the education system, re-building the trust of education professionals and co-designing a new inspection framework. ETI has transformed the inspection process, lowering the stakes for schools and colleges, while empowering them to make impactful changes to continuously improve the teaching standards and the outcomes attained by the children and young people. Inspection has evolved to better reflect need and to ensure it acts as a stimulus for improvement.

All professionals operate within systems of accountability. It is essential that the current legislation is strengthened so that statutory inspection services can operate unobstructed and transparently in the interests of children and young people.

While it is encouraging that the new inspection framework, created through a process of significant consultation and co-design, has been positively received by schools and organisations who have had direct experience of it to date, any form of non-cooperation with inspection puts at risk the ability of ETI to carry out its statutory duties effectively.

## **5. Recommendations from Previous Reviews**

The recent Independent Review of Education (December 2023) stated that:

*“Inspection by ETI is an important element in accountability as well as being a means by which the performance of the system as a whole can be monitored. Inspection of individual schools, colleges and other bodies should be geared towards ensuring continuous improvement and sharing of best practice. Judgements on performance should be made in this context and be focused on how to bring about improvement. While performance in relation to examinations and qualifications is important, it should not be the sole basis of evaluation.*

*We consider the present position where school inspections are not taking place because of a limited form of industrial action to be unsatisfactory and incompatible with necessary standards of accountability and the promotion of public confidence.”*

The recommendation from the Independent Review panel echoed a recommendation from the March 2023 'Independent Review of Special Educational Needs Services and Processes in Northern Ireland' carried out by Ipsos. This report stated:

*DE need to decisively address the issues that have led to industrial action, whilst simultaneously reviewing the legislation to allow the ETI to meaningfully fulfil all aspects of their remit and to engage and collaborate with schools to address pertinent issues. This would only bring Northern Ireland into sync with the rest of the UK.*

It is also a key commitment within the Department's *TransformED* strategy to:

*Bring forward legislation to ensure that the statutory arrangements for inspection are robust and operate effectively in all circumstances.*

## **6. Impact of Industrial Action**

The education sector has experienced prolonged periods of industrial action involving the five recognised teachers' unions that collectively make up the Northern Ireland Teachers' Council (NITC). The chronology of the past 14 years has been one of intermittent and reoccurring disruption to inspection activity.

Action Short of Strike began in 2011 in the case of one union and escalated in 2017 when four out of the five unions engaged in industrial action. By October 2019, all five unions were engaged in Action Short of Strike and strike action.

The Pay and Workload Agreement 2020 brought an end to that extensive period of action in April 2020. This coincided with the start of the global pandemic, school closures and the suspension of inspection. By October 2022, teacher unions had once again returned to Action Short of Strike. This in turn ended in April 2024 following a further pay deal only to return again in February 2025. This action again ceased in April 2025.



From the outset, Action Short of Strike included a directive not to engage with inspection. In effect, inspection has been significantly disrupted for nine consecutive years since 2017.

With the resumption of a full inspection programme in September 2024, we are only now identifying schools that have required sustained external support for some time. Earlier identification of the need for this support would have been beneficial to the teaching workforce within the schools and crucially to the children and young people, helping to improve their learning experiences and the outcomes they attain.

Northern Ireland is the only system within the United Kingdom and Ireland that has been without functioning systems of inspection for almost a decade. We lack even basic data on school and system performance. This is not acceptable.

The impact of non-cooperation with inspection has highlighted the need to strengthen the legislation to ensure that statutory inspection is protected from any form of disruption and settings subject to inspection are clear on the consequences for individuals who intentionally obstruct inspection activity.

## **7. What happens elsewhere?**

In other neighbouring jurisdictions, the law on this matter is significantly more robust, providing for the right of entry, and also the right to inspect any documents relevant to the discharge of functions. It is an offence to ‘obstruct’ the work of an inspector.

The Education Act 2005, applicable to England and Wales, makes it an “offence intentionally to obstruct the Chief Inspector in relation to the inspection of a school”. Similarly, Section 66 of the Education (Scotland) Act 1980 makes it an offence “if any person wilfully obstructs any person authorised to make an inspection”.

A person guilty of committing the offence of ‘intentional obstruction’ is liable on summary conviction to a fine not exceeding level 4 on the standard scale, i.e. up to £2,500 and, in the case of Scotland, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

In the Republic of Ireland, legislation is in place within the Education (Ireland) Act 1998, providing Inspectors with all powers necessary or expedient for the purpose of performing their functions and co-operation by the board and the staff of a school or centre for education. Any person who obstructs or interferes with an inspector in the course of exercising a power conferred on the inspector by legislation or impedes the exercise by the inspector of such a power commits an offence. Such a person is liable on summary conviction to a Class A fine i.e. a fine not exceeding €5,000, or on conviction on indictment, to a fine not exceeding €100,000.

## **8. Stakeholder Engagement**

This public consultation is designed to gather the views and feedback of stakeholders. It will run alongside targeted engagement with key education stakeholders, including Arm's Length Bodies, trade unions, teachers, parents and pupils.

## **9. Impact on Other Executive Departments**

Consideration has been given to the potential impact this policy change may have on legislation and policies of other Executive departments. Whilst not exhaustive, this includes the Department for the Economy, the Department of Agriculture, Environment and Rural Affairs and the Department of Justice. The Department of Education will continue to liaise closely with relevant departments to ensure that policy objectives are aligned.

## **10. Options Considered to Ensure Inspection Co-operation**

In developing proposals to strengthen primary legislation, the Department has carefully considered a range of options to ensure co-operation with inspection. These options broadly fall into three main categories:

**Option 1 – Agreement with Teachers' Negotiating Committee to co-operate with inspection.**

Terms and conditions for teachers in Northern Ireland are negotiated through a formal negotiating machinery known as the Teachers' Negotiating Committee (TNC). All five recognised teacher unions and the Department, all employers and their sectoral support bodies are represented. Formal agreements reached by the TNC have a legal standing. One option is, therefore, to negotiate an agreement that future Action Short of Strike will not include inspection.

This option has the benefits of not requiring legislative change and could be implemented at a pace if agreement was reached. However, it is notable that, despite the hugely significant reforms to the inspection framework, the positivity with which the new model has been received and the fact that there are no outstanding areas of disagreement between ETI and the Teacher Unions; there has been no movement from the position where inspection is included in industrial action.

Consequently, it is considered there is limited potential for inspection to be removed from Action Short of Strike by way of such agreement. In addition, this approach would not create a legal requirement for individual teachers to co-operate with inspection. There is a need to create a stronger statutory framework.

This option is not, therefore, considered practical and has been discounted.

**Option 2 – Changes to the Terms and Conditions of the education workforce to include full cooperation with inspection as a contractual duty.**

Teachers' terms and conditions were set out in statute following the 'Jordanstown Agreement' in 1987. The Teachers' (Terms and Conditions of Employment) Regulations (Northern Ireland) 1987 were formulated and following legislative change since that time the content of the Regulations are now considered to be Departmental Directives. The Directives could be updated to add a specific clause to require full cooperation with inspection.

The recent Teacher Union Action Short of Strike directives have involved non-fulfilment of some contractual duties. It might therefore be considered that adding cooperation with inspection to contractual duties, provides no guarantee that the duty will be

fulfilled. There is no overarching statutory deterrent in this option and it would be extremely challenging to take any action as it would be a matter for the individual employer to address non-compliance with contractual duties.

This option is not, therefore, considered practical and has been discounted.

**Option 3 – Strengthen existing primary legislation to ensure inspection can operate as intended by making it an offence to obstruct school and educational inspection in Northern Ireland.**

As set out above, this option involves augmenting the current primary legislation around inspection by making it an offence for a person to intentionally obstruct an inspection being carried out. A person found guilty of such an offence would be liable to a fine not exceeding Level 4 on the standard scale.

Within Northern Ireland, it is already an offence to obstruct the inspection of employment agencies, of health and social care services and of all workplaces in the enforcement of health and safety law. The absence of a similar protection for our schools, colleges and other educational settings is a significant legislative gap.

To be effective, legislation must be both enforceable and practical to enforce. The current legislative provisions, if left unchanged, could continue to undermine the ETI's effectiveness, leaving Northern Ireland as the only region where obstructing or non-cooperation with inspection is possible without sanction.

It should be noted that the other jurisdictions in the UK and Ireland have not had to resort to prosecution. The very existence of the legislation is sufficient to ensure cooperation and means inspection is not part of industrial action and can operate as intended.

This option is practicable and provides a clear legislative framework to ensure the efficient and effective operation of education inspection in Northern Ireland. It aligns with arrangements for education inspection elsewhere in the UK and Ireland and also provides the same protective framework to education inspection as in other sectors.

Taking into consideration the benefits and issues of each option, the Department is proposing to take forward **Option 3** which would strengthen existing primary legislation.

## 11. Monitoring and Evaluation

The Department, in partnership with ETI, will monitor the new legislative requirements, on an ongoing basis.

## 12. Your Views

The purpose of this consultation is to gather the views of all stakeholders on the Department's proposals to strengthen inspection legislation. This includes parents and carers, children and young people, school leaders, teachers, lecturers, school and college support staff, education sector support bodies, trade unions and any other interested party.

The Department would welcome your views on these proposals. You can do this by completing the questionnaire in the Consultation Booklet. The questionnaire can be completed online by following this [link](#) or by using the QR code below.



If more convenient, a return can be made in hard copy to the address below:

School Improvement Team

Department of Education

Rathgael House

46 Balloo Road

BANGOR BT19 7PR

Or via email to: [DEsit@education-ni.gov.uk](mailto:DEsit@education-ni.gov.uk)

### **13. Section 75 Considerations**

Section 75 of the Northern Ireland Act 1998 requires all public authorities in carrying out their functions to have due regard to the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with a disability and persons without; and
- persons with dependants and persons without.

In addition, without prejudice to the above obligation, public authorities must also, in carrying out their functions, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

The proposals in this consultation have been considered in the context of Section 75(1) and (2) of the Northern Ireland Act 1998. A copy of the EQIA screening document can be found on the Department's website (<https://www.education-ni.gov.uk/de-equality-screenings>).

### **14. Timescale**

This consultation will take place between 15 May 2025 and 10 July 2025.

## **15. What happens next?**

After the close of the consultation period, all responses will be analysed and a report prepared summarising the findings.